

REMARKS

In the pending application, the Office issued a restriction on November 4, 2004. More specifically, the Office requires restriction to one of the following inventions:

- I. Claims 1-13, drawn to a water heater, classified in class 392, subclass 449;
- II. Claims 14-22, drawn to a method of heating water in a storage tank, classified in class 392, subclass 498;
- III. Claims 23-29, drawn to a water heater, classified in class 392, subclass 464; and
- IV. Claims 30-43, drawn to a method of heating water in a storage tank, classified in class 392, subclass 498;

Applicant cancelled the claims of Groups I and III, thereby rendering the restriction moot with respect to those claims. With regard to Groups II and IV, Applicant elects Group IV with traverse.

Applicant respectfully disagrees with the propriety of the restriction with respect to Groups II and IV. There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; and (B) There must be a serious burden on the Examiner if restriction is required. See M.P.E.P. 803. The Applicant respectfully asserts that examination of both Groups II and IV can be made without serious burden on the Examiner since the Office classified Groups II and IV in the same class and subclass. Therefore, contrary to the Office's statement, the two groups have not acquired a separate status in the art as shown by their different classification. Applicant asserts further prosecution of both Groups can be made without serious burden on the Examiner, and request withdrawal of the restriction.

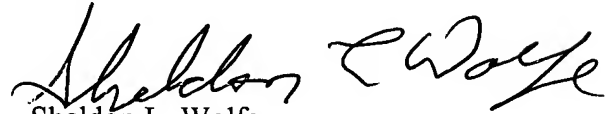
Applicant amended claim 30 to correct some minor typographical errors.

Applicant added claims 44-62 to the application.

CONCLUSION

Entry of the Amendment and allowance of claims 14-22, 30-62 are respectfully requested. The undersigned is available for telephone consultation at any time during normal business hours.

Respectfully submitted,


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